

ROWAN COUNTY BOARD OF HEALTH
OPERATING PROCEDURES
Revised 01-10-2023

ARTICLE 1: NAME AND PURPOSE

- Section 1: Name: The name of this organization shall be the Rowan County Board of Health (hereinafter "Board of Health").
- Section 2: Purpose: The purpose of this organization shall be to promote health, prevent disease and protect the public's health as set forth in Chapter 130A of the NC General Statutes. References to General Statutes Section (GS) include any and all amendments thereto and are incorporated herein by reference or actual General Statute.

ARTICLE II: OFFICES

- Section 1: Principle Office: Principle Office of the Rowan County Health Department shall be located at the Department's office, located at 1811 East Innes Street, Salisbury, NC, 28146.

ARTICLE III: MEMBERSHIP OF THE BOARD
(GS 130A-35)

- Section 1: Responsibilities (130A-35a): The Board of Health shall be the policy-making, rule-making and adjudicatory body for the Rowan County Health Department.
- Section 2: Appointments (130A-35b): The members of a county Board of Health shall be appointed by the county Board of Commissioners. The Board of Health shall be composed of 11 members. The composition of the Board shall reasonably reflect the population makeup of the county and shall include: one physician licensed to practice medicine in this state, one licensed dentist, one licensed optometrist, one licensed veterinarian, one registered nurse, one licensed pharmacist, one county commissioner, one professional engineer, and three representatives of the general public. Except as otherwise provided in this section, all members shall be residents of the county. If there is not a licensed physician, a licensed dentist, a licensed optometrist, a licensed veterinarian, a registered nurse, a licensed pharmacist, or a professional engineer available for appointment, an additional representative of the general public shall be appointed. If however, one of the designated professions has only one person residing in the county, the county commissioners shall have the option of appointing that person or a member of the general public.
- Section 3: Terms (130A-35c): Except as provided in this subsection, members of a county board of health shall serve three-year terms. No member may serve more than three consecutive three year terms unless the member is the only person residing in the county who represents one of the professions designated in section 2 of this section. The county commissioner member shall serve only as long as the member is a county commissioner. When a representative of the general public is appointed due to the unavailability of a licensed physician, a licensed dentist, a licensed optometrist, a licensed veterinarian, a registered nurse, a licensed pharmacist, or a professional engineer, that member shall serve only until a licensed physician, a licensed dentist, a licensed optometrist, a licensed veterinarian, a registered nurse, a licensed pharmacist, or a professional engineer becomes available for appointment. In order to establish a uniform staggered term structure for the board, a member may be appointed for less than a three year term.
- Section 4: Vacancies (130A-35d): Vacancies shall be filled for any unexpired portion of a term.
- Section 5: Chairperson (130A-35e): The board of health shall elect a chairperson and vice-chairperson annually. If the Chair is absent, the Vice-Chair shall preside. If the Chair and Vice-Chair are both absent, another member designated by a majority vote of the members present at the meeting shall preside. The agency's health director shall serve as the secretary to the board.

- Section 6: Quorum (130A-35f): A majority of the actual membership of the Board, excluding vacant seats, shall constitute a quorum. A member who has withdrawn from a meeting without being excused by a majority vote of the remaining members shall be counted as present for purposes of determining whether or not a quorum is present.
- Section 7: Removal from the Board (130A-35g): A member may be removed from office by the county board of commissioners for:
- (1) Commission of a felony or other crime involving moral turpitude;
 - (2) Violation of a State law governing conflict of interest;
 - (3) Violation of a written policy adopted by the county board of commissioners;
 - (4) Habitual failure to attend meetings;
 - (5) Conduct that tends to bring the office into disrepute; or
 - (6) Failure to maintain qualifications for appointment required under section 2 of this section. A board member may be removed only after the member has been given written notice of the basis for removal and has had the opportunity to respond.
- Section 8: Per Diem (130A-35h): A member may receive a per diem in an amount established by the county board of commissioners. Reimbursement for subsistence and travel shall be in accordance with a policy set by the county board of commissioners.
- Section 9: Resignations: Any member of the board of health may resign at any time by giving written notice to the chairman of the county commissioners or chairman/vice-chairman of the Board of Health. The resignation of any board member shall take effect upon receipt of the notice thereof or at such later date as shall be specified in such a notice; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.
- Section 10: Voting: Each member shall have one vote; but, shall be requested to recuse from voting if said member is casting a vote that involving conflicts of interest as defined by North Carolina law. Voting by proxy shall not be permitted.
- Section 11: Dissenting Votes: A member, who is present at a meeting of the board of health or a committee meeting when action is taken, is deemed to have assented to the action unless the member's dissent from the action is entered in the minutes of the meeting by recordation of vote tallies or a specific dissenting entry. A vote of abstention shall be recorded as a yes vote.
- Section 12: Conflict of Interest: It shall be the policy of the board of health that no member of the board shall participate in, discuss or cast a vote as to any matter or issue on which such member stands potentially to receive any financial gain or any personal favor or in which a conflict of interest may exist.
- Section 13: Minutes: The Secretary shall prepare minutes of each Board meeting. Copies of the minutes shall be made available to each Board member before the next regular Board meeting. At each regular meeting, the Board shall review the minutes of the previous regular meeting as well as any special or emergency meetings that have occurred since the previous regular meeting, make any necessary revisions, and approve the minutes as originally drafted or as revised. The public may obtain copies of Board meeting minutes at the Health Department Administrative Office at 1811 E. Innes Street, Salisbury, NC.

ARTICLE IV: POWERS AND DUTIES OF THE BOARD OF HEALTH **(GS 130A-39)**

- Section 1: A local board of health shall have the responsibility to protect and promote the public health. The board shall have the authority to adopt rules necessary for that purpose.
- Section 2: A local board of health may adopt a more stringent rule in an area regulated by the Commission for Health Services or the Environmental Management Commission where, in the opinion of the local board of health, a more stringent rule is required to protect the

public health; otherwise, the rules of the Commission for Health Services or the rules of the Environmental Management Commission shall prevail over local board of health rules. However, a local board of health may not adopt a rule concerning the grading, operating, and permitting of food and lodging facilities as defined in G.S. 130A-247(1), and a local board of health may adopt rules concerning wastewater collection, treatment and disposal systems which are not designed to discharge effluent to the land surface or surface waters only in accordance with G.S. 130A-335(c).

- Section 3: The rules of a local board of health shall apply to all municipalities within the local board's jurisdiction.
- Section 4: Not less than 10 days before the adoption, amendment or repeal of any local board of health rule, the proposed rule shall be made available at the office of each county clerk within the board's jurisdiction, and a notice shall be published in a newspaper having general circulation within the area of the board's jurisdiction. The notice shall contain a statement of the substance of the proposed rule or a description of the subjects and issues involved, the proposed effective date of the rule and a statement that copies of the proposed rule are available at the local health department. A local board of health rule shall become effective upon adoption unless a later effective date is specified in the rule.
- Section 5: Copies of all rules shall be filed with the secretary of the local board of health.
- Section 6: A local board of health may, in its rules, adopt by reference any code, standard, rule or regulation which has been adopted by any agency of this State, another state, any agency of the United States or by a generally recognized association. Copies of any material adopted by reference shall be filed with the rules.
- Section 7: A local board of health may impose a fee for services to be rendered by a local health department, except where the imposition of a fee is prohibited by statute or where an employee of the local health department is performing the services as an agent of the State. Notwithstanding any other provisions of law, a local board of health may impose cost related fees for services performed pursuant to Article 11 of GS 130A, "Wastewater Systems," for services performed pursuant to Part 10, Article 8 of 130A, "Public Swimming Pools", and for services performed pursuant to Part 11, Article 8 of 130A, "Tattooing". Fees shall be based upon a plan recommended by the local health director and approved by the local board of health and the appropriate county board or boards of commissioners. The fees collected under the authority of this subsection are to be deposited to the account of the local health department so that they may be expended for public health purposes in accordance with the provisions of the Local Government Budget and Fiscal Control Act.

ARTICLE V: APPEALS PROCEDURES FOR RULES ADOPTED BY THE BOARD OF HEALTH **(130A-24)**

- Section 1: Appeals concerning the enforcement of rules adopted by the local board of health and concerning the imposition of administrative penalties by a local health director shall be conducted in accordance with this section and sections 2 and 3 of this section. The aggrieved person shall give written notice of appeal to the local health director within 30 days of the challenged action. The notice shall contain the name and address of the aggrieved person, a description of the challenged action and a statement of the reasons why the challenged action is incorrect. Upon filing of the notice, the local health director shall, within five working days, transmit to the local board of health the notice of appeal and the papers and materials upon which the challenged action was taken.
- Section 2: The local board of health shall hold a hearing within 15 days of the receipt of the notice of appeal. The board shall give the person not less than 10 days' notice of the date, time and place of the hearing. On appeal, the board shall have authority to affirm, modify or reverse the challenged action. The local board of health shall issue a written decision based on the evidence presented at the hearing. The decision shall contain a concise statement of the reasons for the decision.

Section 3: A person who wishes to contest a decision of the local board of health under section 1 of this section shall have a right of appeal to the district court having jurisdiction within 30 days after the date of the decision by the board. The scope of review in district court shall be the same as in G.S. 150B-51.

ARTICLE VI: COMMITTEES

Section 1: Committees: The board of health shall have the power, in its discretion, to appoint from their number a standing committee(s) with the powers of the committee delegated to it by the board of health. The board of health shall have full power and authority to create the committee(s), to discontinue them, to recreate them, and to reduce and increase the number of its members at any time. Every reasonable effort shall be made to advise each member of the committee, at least one week in advance, of the time and place when a meeting is to be held. Minutes of meetings of the committee shall be kept in the same manner as minutes of meetings of the board of health. All standing or special committees are subject to the North Carolina open meetings laws and shall comply with the provisions of those laws. An appointed subcommittee of the Board of Health may bring motions to the full Board for consideration. Since the motion is from a subcommittee appointed by the Chair or full Board, a motion from a subcommittee does not require a second in the full Board meeting. After submission by the subcommittee, the motion for approval or non- approval is considered by the full Board of Health.

Section 2: Special Committees: Special committees to consider, report, and advise the board with respect to special problems or matters of importance may be appointed by the Chairperson from time to time as the Chairperson deems necessary.

ARTICLE VII: MEETING TYPES AND NOTICES

Section 1: Meetings (130A-35i): The board shall meet at least quarterly. Generally, the Rowan County Board of Health regular meeting is the second Tuesday of each month at 5:30 pm at the Rowan County Health Department.

The Secretary to the Board shall prepare an agenda for each meeting. Any Board member who wishes to place an item of business on the agenda shall submit a request to the Secretary at least five working days before the meeting. For regular meetings, the Board may add items to the agenda or subtract items from the agenda by a majority vote. The agenda for a special or emergency meeting may be altered only if permitted by and in accordance with the North Carolina open meetings laws.

Section 2: NC Open Meetings Law: All Board of Health meetings shall comply with the NC Open Meetings Law. Public notice giving time, place, and the purpose of the meeting must be given as follows:

Regular Board of Health meetings will be held on (day) of (month) at (time) at (location)

Notice of time and place will be posted on the Rowan County Health Department's website under the Board of Health link, on the principal health department bulletin board, and on the County website. If the regular meeting schedule changes, the new notice of time and place will be posted as above at least seven calendar days before the first meeting to which a new schedule applies. (G.S. 143-318.12a)

Section 3: Special Meetings: The chairperson or three of the members may call a special meeting. Called meetings of the board of health shall give 48 hours notice by any usual means of public communication in the county.

Section 4: Remote Participation in Regular and Special Meetings of the Board: The Board recognizes that physical attendance at Board meetings is necessary to meet its obligations provided herein, to ensure and fully participate in hearings, deliberations, and actions/business before the Board, and to meet the objectives of transparency for the public as set forth in Article 33C of Chapter 143 of the North Carolina General Statutes. However, the Board also recognizes and acknowledges that extenuating circumstances

may occasionally exist that would prevent a Board member from being physically present at official meetings of the Board. As such, a Board member is permitted to participate remotely in the open session of a regular or special meeting provided the following criteria are met:

1. Participation shall be by phone, audio or video conference, Internet-based video conference, or other technology that allows all members of the Board, including those participating from a remote location, to hear all comments and deliberations of the Board, staff, and public present at the meeting in real time. All members must be able to clearly and timely hear one another and members of the staff and public speaking on an agenda item. However, no participation may be by email, text messaging, instant messaging, or similar form of electronic "chat".
2. The Board member has notified the Chairman no less than twenty-four hours in advance of the meeting to allow the necessary arrangements to be made and allow the Chairman sufficient time to confirm a quorum will be physically present at the meeting.
3. Voting by the member during remote participation is permitted when:
 - a. The Board member has been provided and/or is able to review all documents presented at the meeting.
 - b. The Board member has been available remotely to participate and hear the entire discussion preceding the vote on the agenda item;
 - c. The Board member's vote is not the deciding vote on any matter.
4. At any meeting in which remote participation is to occur, the Chairman shall announce at the commencement of the meeting the name of the Board member(s) participating remotely. The Board member shall identify themselves by name prior to participating in deliberations and prior to voting. The Secretary shall note such participation in the minutes of the meeting, including any interruption or discontinuance of the remote participation. Minutes should record the person(s) unable to be physically present as not recusing himself or herself, but rather choosing to participate electronically.
5. Any electronic meeting shall accommodate both the public comment period and the public access to the meeting. The capacity to accommodate public participation, while allowing public listening shall be provided. Separate communication lines for the media/public that can be controlled (i.e. mute) public participation, but still allow Board members to comment and to know who you have on the line voting, may be used to accomplish this. The location and means whereby members of the public may listen to the meeting should be specified in the meeting notice. Compliance with the statutory requirements of notice access and minutes must be assured. Minutes are required and shall be kept even when conducting a meeting electronically. (G.S. 143-318-10).

ARTICLE VII: THE HEALTH DIRECTOR **(GS 130A-40 and 41)**

130A-40. Appointment of local health director.

Section 1: A local board of health, after consulting with the Board of County Commissioners, shall appoint a local health director. All persons who are appointed to the position of local health director on or after January 1, 1992, must possess minimum education and experience requirements for that position, as follows:

1. A medical doctorate; or
2. A Masters degree in Public Health Administration, and at least one year of employment experience in health programs or health services; or
3. A Masters degree in a public health discipline other than public health administration, and at least three years of employment experience in health programs or health services; or
4. A Masters degree in public administration, and at least two years of experience in health programs or health services; or
5. A Masters degree in a field related to public health, and at least three years of experience in health programs or health services; or
6. A Bachelors degree in public health administration or public administration and at least three years of experience in health programs or health services.

- Section 2: Before appointing a person to the position of local health director under section 1 of this section, the local board of health shall forward the application and other pertinent materials of such candidate to the State Health Director. If the State Health Director determines that the candidate's masters degree is in a field not related to public health, the State Health Director shall so notify the local board of health in writing within 15 days of the State Health Director's receipt of the application and materials, and such candidate shall be deemed not to meet the education requirements of section 1 of this section. If the State Health Director fails to act upon the application within 15 days of receipt of the application and materials from the local board of health, the application shall be deemed approved with respect to the education requirements of section 1 of this section, and the local board of health may proceed with the appointment process.
- Section 3: The State Health Director shall review requests of educational institutions to determine whether a particular Masters degree offered by the requesting institution is related to public health for the purposes of section 1 of this section. The State Health Director shall act upon such requests within 90 days of receipt of the request and pertinent materials from the institution, and shall notify the institution of its determination in writing within the 90-day review period. If the State Health Director determines that an institution's particular masters degree is not related to public health, the State Health Director shall include the reasons therefore in his/her written determination to the institution.
- Section 4: When a local board of health fails to appoint a local health director within 60 days of the creation of a vacancy, the State Health Director may appoint a local health director to serve until the local board of health appoints a local health director in accordance with this section.

130A-41. Powers and duties of local health director.

- Section 5: A local health director shall be the administrative head of the local health department, shall perform public health duties prescribed by and under the supervision of the local board of health and the Department and shall be employed full time in the field of public health. The local health director shall serve as Secretary to the Board of Health, but the director is not a member of the Board. The local health director may delegate the duties of the Secretary that are set forth in these operating procedures to an appropriate local health department employee.
- Section 6: A local health director shall have the following powers and duties:
1. To administer programs as directed by the local board of health;
 2. To enforce the rules of the local board of health;
 3. To investigate the causes of infectious, communicable and other diseases;
 4. To exercise quarantine authority and isolation authority pursuant to GS 130A-145;
 5. To disseminate public health information and to promote the benefits of good health;
 6. To advise local officials concerning public health matters;
 7. To enforce the immunization requirements of Part 2 of Article 6 of GS 130A;
 8. To examine and investigate cases of venereal disease pursuant to Parts 3 and 4 of Article 6 of GS 130A;
 9. To examine and investigate cases of tuberculosis pursuant to Part 5 of Article 6 of GS 130A;
 10. To examine, investigate and control rabies pursuant to Part 6 of Article 6 of GS 30A;
 11. To abate public health nuisances and imminent hazards pursuant to GS 130A-19 and GS 130A-20;
 12. To employ and dismiss employees of the local health department in accordance with GS126;
 13. To enter contracts, in accordance with The Local Government Finance Act, GS Chapter 159, on behalf of the local health department. Nothing in this paragraph shall be construed to abrogate the authority of the board of county commissioners.

Authority conferred upon a local health director may be exercised only within the county or counties comprising the local health department.

ARTICLE VIII: GENERAL PROVISIONS

- Section 1: Open Meetings: The board of health shall comply with all open meeting laws of the State of North Carolina. In general, all meetings shall be open to the public unless a "Closed Session" is recommended, according to state law, by a majority of the board members. The Board cannot take any official action in a closed session. Any decisions made by the Board in a closed session will be voted on once the Board has adjourned the "Closed Session" and returned to an open meeting. The minutes of a "Closed Session" will be maintained in a closed file by the Secretary to the Board until the County Attorney or a judge determines that the information should be made available to the public.
- Section 2: Amendments: Except as otherwise provided herein, these bylaws may be amended or repealed and new bylaws may be adopted by the affirmative vote of a majority of the board of health members then holding positions on the board at any regular or special meeting of the board.
- Section 3: Parliamentary Authority: Unless otherwise provided herein, the provisions of Robert's Rules of Order, newly revised, shall apply to all proceedings. The board of health chairperson may appoint a member of the board as parliamentarian to the board.
- Section 4: Legal Counsel: At the request of the Chairman of the Board of Health, the County Attorney will provide such legal counsel as requested, and shall be approved by the County Manager/Board of Commissioners.
- Section 5: Compliance with North Carolina Law: In conducting its business, the Board shall comply with all applicable North Carolina laws, including but not limited to open meetings laws, public record laws, and the laws setting forth the powers and duties of local boards of health. To assist the Board in compliance, the local health director shall maintain a current copy of relevant North Carolina General Statutes and make them available to Board members on request.

Approved and passed by the Rowan County Board of Health, this the 10th of January 2023.

Chairperson of the Rowan County Board of Health

Secretary to the Board of Health

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Primary Source of Information:

<http://www.ncga.state.nc.us/gascripts/statutes/statutestoc.pl?Chapter=0130A>
(http://ncga.state.nc.us/EnactedLegislation/Statutes/HTML/ByChapter/Chapter_130A.html)